

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Gary Lee Anders)
Dist. 1, Map 95C, Group C, Control Map 95C,) Claiborne County
Parcel 16.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$18,200 | \$ -0- | \$18,200 | \$4,550 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. The assessor of property was represented by staff member Judy Myers and Brian Walker, TMA, an appraiser with the Division of Property Assessments. The taxpayer, Gary L. Anders, represented himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an irregularly shaped 150' x 200' vacant lot located in the Arch Buchanan Subdivision on Elm Street in Tazewell, Tennessee.

The taxpayer contended that subject property should be valued at \$11,500 as it was prior to the 2007 countywide reappraisal. In support of this position, the taxpayer testified that no improvements have been made to subject lot. In addition, the taxpayer maintained that subject lot experiences a diminution in value because of its topography. Finally, the taxpayer testified that he expressed a willingness 4-5 years ago to sell subject lot for \$13,000 if someone wanted to buy it.

The assessor contended that subject property should remain valued at \$18,200. In support of this position, the testimony and written analysis of Brian Walker, TMA was offered into evidence. Essentially, Mr. Walker analyzed three comparable sales which he asserted support the current appraisal of subject lot. Mr. Walker argued that the topography of subject lot has been adequately considered as evidenced by the fact that two of the comparables are much steeper. Moreover, the property record card reflects a downward adjustment of 30% due to topography.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$18,200 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject lot as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Respectfully, the taxpayer did not introduce a single comparable sale to support his contention of value. In contrast, Mr. Walker analyzed three comparable sales, two of which are much steeper than the subject.

The administrative judge finds Mr. Anders' statement 4-5 years ago that he would accept \$13,000 for subject lot if someone wished to buy it has no probative value. The administrative judge finds that subject lot was never even advertised for sale and January 1, 2007 constitutes the relevant assessment date.

The administrative judge would also note for the taxpayer's benefit that Claiborne County's last reappraisal program was back in 2002. Thus, the previous appraisal of \$11,500 reflected value estimates as of January 1, 2002. Once again, the administrative judge finds that January 1, 2007 represents the pertinent assessment date.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$18,200 | \$ -0- | \$18,200 | \$4,550 |


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Gary Lee Anders
Kay Sandifer, Assessor of Property